

DETAILED ACTION

Response to Amendment

Applicant's amendment filed on 9/07/09 has been entered. Claims 17, 21, 23, 24 and 35 have been amended. Claims 1-16, 18-20, 22, 25-34, 36 and 37 have been cancelled. Claim 38 has been added. Claims 17, 21, 23, 24, 35 and 38 are still pending in this application, with claims 17 and 38 being independent.

Claim Objections

1. Claims 1, 21, 23, 24, 35 and 38 are object to for the following informalities" The acronym "LED" needs to be defined within the claim language. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17, 21, 23, 24, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cawkwell (GB 2,377,172) and further in view of McSheffrey (US 5,775,430).

With respect to claim 17, Cawkwell teaches a fire extinguishing apparatus (fire extinguisher 1) having a cylindrical body (canister 1) for storing fire-extinguishing material (operationally required by the device) and a handle (trigger handle 5 with upper candle handle 4; Fig. 1). Cawkwell teaches a light emitting diode (signaling device 8) being attached to the canister of the fire extinguisher by any form of attachment (a strap, belt or elongated fixing device are given as examples; pg 4, ln 29 - pg 5, ln 3). Cawkwell does not explicitly teach a plurality of LEDs located and extending in a line around the base of the cylindrical body of the fire extinguisher to provide a constant indication, for a pre-determined period of time (LEDs are lit as long as the battery is operational), as to the location of the apparatus. Cawkwell does not explicitly teach a pin. McSheffrey teaches a fire extinguisher having a pin (pull pin 42; Fig. 1). Therefore, it would have been obvious to one skilled in the art at the time of the invention to attach the signaling device near or at the base of the canister by a strap, belt, or elongated fixing device as taught by Cawkwell. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use multiple signaling devices attached near or at the base of the canister by a strap, belt, chain or elongated fixing device, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. One would have been motivated to do so in order to increase the luminance of the area surrounding the device so the fire extinguisher is easily identifiable in smoky conditions.

With respect to claim 21, Cawkwell teaches each LED providing a different color that is indicative of a representative color of the material within the fire extinguisher (pg. 6, ln 1-4).

With respect to claim 23, Cawkwell teaches the LEDs being mounted on a strip (a strap, belt or elongated fixing device; pg 4, ln 29 - pg 5, ln 3).

With respect to claim 24, Cawkwell teach the LEDs being powered by a battery (pg. 6, ln 6-9). Cawkwell does not explicitly teach the battery being synchronized to the service period of the apparatus such that a powerless LED indicates that the fire extinguishing apparatus is due for a service. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the battery being synchronized to the service period of the apparatus such that a powerless LED indicates that the fire extinguishing apparatus is due for a service, because a person of ordinary skill in the art would have had good reason to pursue the known option(s) of indicating when service is needed to a fire extinguisher which is considered to be within his or her technical grasp. This leads to the anticipated success of having the battery synchronized to the service period of the apparatus such that a powerless LED indicates that the fire extinguishing apparatus is due for a service and it is determined that having the battery being synchronized to the service period of the apparatus such that a powerless LED indicates that the fire extinguishing apparatus is due for a service

is not of innovation, but of ordinary skill and common sense. *See KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007).

With respect to claim 35, Cawkwell teaches the light source integrated with the handle, attached by a belt around the canister, or integrated or attached to a wall-mounted bracket (pg. 6, ln 6-9). Cawkwell does not explicitly teach a LED being mounted on either side of a pin. McSheffrey teaches a fire extinguisher having a pin (pull pin 42; Fig. 1). McSheffrey teaches at least one indicating device (valve gauge 24) being mounted in the immediate vicinity of the pin and mounted on either side of the pin (Fig. 1). Cawkwell and McSheffrey disclose all the limitations of the claims, except for an LED mounted on either side of a pin. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have an LED mounted on either side of a pin, since it has been held that rearranging parts of a prior art structure involves only routing skill in the art. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). One would have been motivated to do so to indicate the location of the pin on the fire extinguisher during smoky conditions.

4. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koehn (US 6,092,905).

With respect to claim 38, Koehn teaches a base mount (holder 10) having a plurality of LEDs (plurality of light sources 20; Col. 4, ln 13-18) located and extending in a line around the base to provide a constant indication as to its location (evidenced in Fig. 1). Koehn does not explicitly teach the device being used for a fire extinguisher.

However, it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to make the holder large enough to hold a fire extinguisher, since it has been held by the courts that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham 2 USPQ2d 1647 (1987). One would have been motivated to do so to provide illumination where the fire extinguisher is during dark and smoky conditions.

Response to Arguments

5. Applicant's arguments with respect to new claims 17, 21, 23, 24, 35 and 38 have been considered but are moot in view of the new ground(s) of rejection.
6. In regards to applicant's arguments that Cawkwell does not teach or suggest the cylindrical body having a plurality of LEDs located and extending in a line around the base thereof to provide constant indication for a pre-determined period of time, as to the location of the apparatus. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use multiple signaling devices attached near or at the base of the canister by a strap, belt, chain or elongated fixing device, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. One would have been motivated to do so in order to increase the luminance of the area surrounding the device so the fire extinguisher is easily identifiable in smoky conditions.

7. In regards to applicant's arguments that Cawkwell does not teach or suggest providing a constant indication for a pre-determined period of time (for example the length of time before service is required). It would have been obvious to one of ordinary skill in the art at the time of the invention to have the battery being synchronized to the service period of the apparatus such that a powerless LED indicates that the fire extinguishing apparatus is due for a service, because a person of ordinary skill in the art would have had good reason to pursue the known option(s) of indicating when service is needed to a fire extinguisher which is considered to be within his or her technical grasp. This leads to the anticipated success of having the battery synchronized to the service period of the apparatus such that a powerless LED indicates that the fire extinguishing apparatus is due for a service and it is determined that having the battery being synchronized to the service period of the apparatus such that a powerless LED indicates that the fire extinguishing apparatus is due for a service is not of innovation, but of ordinary skill and common sense. *See KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIELLE ALLEN whose telephone number is (571)270-3039. The examiner can normally be reached on Monday thru Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2875

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sandra L. O'Shea/
Supervisory Patent Examiner, Art Unit 2875

DA